IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT:**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL Nos: 2213 of 2004, 47 of 2005, 51 of 2005, 56 of 2005 & 89 of 2005

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WRIT APPEAL NO : 2213 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/10/2004 in WP NO : 10901 OF 2004 on the file of the High Court.)

Between:

1 The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, A.P. Hyderabad.
3 The Principal General Manager, Telecom District, Hdyerabad, A.P.
4 The Prl. Chief Engineer (E), BSNL, Electrical Zone, Hyderabad.
5 The Supdt. Engineer (E), BSNL, Nampally, Hyderabad.
6 The Executive Engineer (E), BSNL, Nampally, Hyderabad.

..... APPELLANT(S)

AND

Sri M. Subbarao, S/o. M> Subramanyam Rao,
O/o. Supdt. Engineer, BSNL, Electrical Zone, 5-8-363, Chirag Ali Lane, Abids, Hyderabad.

.....RESPONDENT

Counsel for the Appellants:MR.R.S.MURTHY

Counsel for the Respondent : MR.KRISHNA DEVAN

WRIT APPEAL NO : 47 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/10/2004 in WP NO : 10886 OF 2004 on the file of the High Court.)

Between:

1 The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, Andhra Pradesh, Hyderabad.
3 The Principal General Manager, Telecom District, Hyderabad, Andhra Pradesh.
4 The Principal Chief Engineer (E), BSNL, Electrical Zone, Hyderabad.
5 The Superintendent Engineer (E), BSNL Namaplly, Hyderabad.
6 The Executive Engineer (E), BSNL, Nampally, Hyderabad.

..... APPELLANT(S)

AND

S. Bhaskar, S/o. S. Anjaneyulu,
O/o. Superintendent Engineer, BSNL, Electrical Zone, 5-8-363, Chirag Ali Lane,
Abids, Hyderabad.

.....RESPONDENT

Counsel for the Appellants :MR.R.S.MURTHY

Counsel for the Respondent No.: MR.KRISHNA DEVAN

WRIT APPEAL NO : 51 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14-10-2004 in WP NO: 10885 OF 2004 on the file of the High Court.)

Between:

1. The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2. The Chief General Manager, BSNL, AP,Hyderabad.
3. The General Manager, BSNL, Tirupati SSA, Tirupati.
4. The Principal Chief Engineer(E), BSNL, Electrical Zone, Hyderabad.
5. The Superintending Engineer(E), BSNL, Vijayawada.
6. The Executive Engineer (E), BSNL, D.R.Mahal Road, Tirupati.

Petitioners/Appellants

AND

1. Sri B.Nageswararao, s/o, Late Sri B.Nagamanaidu, O/o.Executive Engineer (E), BSNL, D.R.Mahal Road, Tirupati.

RESPONDENT

Counsel for the Appellants: MR.R.S.Murthy

Counsel for the Respondent: MR. KRISHNA DEVAN

WRIT APPEAL NO : 56 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08/12/2004 in WP NO : 11099 OF 2004 on the file of the High Court.)

Between:

1 The Senior Deputy Director General (Electrical) Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, AP,Hyderabad.
3 The Principal General Manager, Telecom District,Hyderabad AP.
4 The Principal Chief Engineer (E), BSNL, Electrical Zone Hyderabad.
5 The Supdt. Engineer (E), BSNL, Nampally, Hyderabad
6 The Executive Engineer (E), BSNL, Nampally, Hyderabad.

..... APPELLANT(S)

AND

M.Vamadeva S/o.Ramakrishna Sastry
O/o.Supdt.Engineer, BSNL, Electrical
R/o.Kakatiyanagar, Naredmetta, Secunderabad.

.....RESPONDENT

Counsel for the Appellants:MR.R.S.MURTHY

Counsel for the Respondent : MR.KRISHNA DEVAN

WRIT APPEAL NO : 89 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/10/2004 in WP NO : 10799 OF 2004 on the file of the High Court.)

Between:

1 The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, AP, Hyderabad.
3 The Principal General Manager, Telecom District, Hyderabad, A.P>
4 the Principal Chief Engineer (E), BSNL, Electrical Zone, Hyderabad.
5 The Supdt. Engineer (E), BSNl, Nampally, Hyderabad
6 The Executive Engineer (E), BSNl, Nampally, Hyderabad.

..... APPELLANT(S)

AND

Smt. M. Kasturi, W/o. Sri M. Surya Kumar,
O/o. Executive Engineer, BSNL, Electrical Division BSNL, Nampally, Hyderabad.

.....RESPONDENT

Counsel for the Appellant:MR.R.S.MURTHY

Counsel for the Respondent No.: MR.KRISHNA DEVAN

The Court made the following :

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COMMON JUDGMENT:(per Hon'ble Smt. justice T.Meena Kumari)

This writ appeal is filed by the Bharatiya Sanchara Nigam Limited-appellant herein aggrieved by the common order in W.P.No: 10779, 10885, 10886, 10901 and 9758 of 2004, dated 14.10.2004, under which the learned single Judge allowed the writ petitions to the extent indicated therein.

In all these appeals, since the parties are one and the same and issue involved is identical, they are disposed of by a common judgment.

The B.S.N.L. authorities are the appellants herein. The respondents in the respective writ appeals are the writ petitioners. They filed the writ petitions seeking a writ of mandamus by declaring that the action of the appellants in rejecting the claim for conversion of the petitioners into full time casual labourers, (2) for grant of temporary status, (3) to declare that the termination of the services of the petitioners by the appellants by shifting to contractors without any valid reason, notice or at least an order in writing, as arbitrary and violative of Article 14, 16 and 21 of the Constitution of India and to set aside the same and to direct the appellants to convert the petitioners into full time casual labourers and to re engage them along with

consequential benefits.

The learned single Judge having held that the part time casual labourers who worked in the appellants-company as on 1.8.1998 and who have completed 240 days preceding 1.8.1998, are entitled to be included in the scheme for grant of temporary status and since the petitioners continuously worked as part time casual labourers as on 1.8.1998 for more than 240 days, they shall be converted as full time casual labour and conferred temporary status as such, allowed the writ petitions.

Heard the learned counsel on either side.

Relying upon the judgment of the Apex Court reported in WORKMEN OF NILGIRI CO OPERATIVE MARKETING SOCIETIES LTD. V. STATE OF TAMILNADU & OTHERS (), it is contended by the learned counsel for the appellants-company that the writ petitioners are only the contract labourers, but not the casual labourers and as such, they are not entitled for any relief. But, however, the letter dated 27.9.2002 addressed by the 4th respondent-appellant to the 1st respondent-appellant discloses that the details as to the full time and part time casual labourers who were working under B.S.N.L., Electrical Zone, Hyderabad were enclosed by mentioning that all those casual labourers were working in the unit prior to issue of the ban order dated 12.2.1999 and all the names of the petitioners have been figured in that annexure showing that they are working for three to four hours and so far as the mode of payment is concerned, the same was made by the Contractors and therefore, they cannot be considered for regularisation. It is further argued that those who have completed 10 years, are only entitled for conferment of temporary status and hence, the writ petitioners are not entitled for any conferment of temporary status as directed by the learned single Judge.

On the other hand, placing reliance on the proceedings of the Department of Telecommunication Services, dated 29.9.2000 to all the CGMs., in the circles and Telephone Districts and all Heads of other Administrative Officers and all the I.F.A's in Telecom. Circles/Districts and other Administrative Units, it is contended by the learned counsel for the writ petitioners that certain guidelines have been issued to regularize all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 1.10.2000 in the following order:

1.All casual labourers who have been granted temporary status upto the issuance of orders No:269-4/93-STN-II, dated 12.2.1999, circulated vide letter dated 269-13/99/STN –II, dated 12.2.1999 and further vide letter No:269-13/99-STN-II, dated 9.6.2000.

2.All Full time casual labourers as indicated in annexture.

3.All Part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No:269-13/99-STN-II, dated 16.9.1999.

4.All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No:269-13/99-STN-II, dated 25.8.2000.

5.All Ayas and Supervisors converted into full time casual labourers as per order No:269-10/97-STN-II, dated 29.9.2000.

It is contended by the learned counsel for the writ petitioners that the names of the writ petitioners have not been included in the annexure enclosed to the above instructions even though they have been working since 1991 onwards for the reasons best known to the appellant-Company. It is further contended that it is clearly mentioned in the said order that if there are any cases of the labourers left over due to any reason, they may be referred to the Headquarters separately. It is further contended that inspite of the said instructions, the Department has not acted upon the same even though the cases of the petitioners fall under the left over cases.

At this juncture, it is submitted by the learned standing counsel for the appellant that there is a ban imposed by the Central Government and that they have to complete 10 years of service for regularization as casual labourers. But, however, with reference to the ban, it has to be observed that there is a scheme in existence and the names of the petitioners have not been included in the scheme and they cannot claim the regularization or conferment of temporary status as a matter of right.

We have perused the order of the learned single Judge and the material available on record.

As could be seen from the letter of the 4th respondent-appellant, dated 27.9.2002, it is apparent that there are sufficient number of vacancies in the group-D available to accommodate all those casual labourers. Pursuant to the letter of the 2nd respondent-appellant in E.A/STB/20-2/Corr/2000/3, dated 29.9.2000 instructing to call for the names of the persons who are working for more than four hours in the prescribed proforma from the General Managers of the Telecom District, Hyderabad and other S.S.A. units, the concerned authorities submitted the required information relating to the respective Zones, but the names of the petitioners were not considered. But, on the representation, their cases were rejected on the ground that they are contract labour.

In a Judgment of the Apex Court as relied on by the learned single Judge, reported in UNION OF INDIA V. MOHAN PAL (), it is held that the scheme of 1993 provides that a casual labour who has completed 240 days of working in a year would be entitled to temporary status. The conferment of temporary status is to be given to the casual labourers who were in employment as on the date of commencement of the scheme and it cannot be treated as an ongoing scheme.

It is not out of place to refer to the letter issued by the 4th respondent-appellant in MOG/12022/1/BSNLEZH/2002/606, dated 27.9.1992 addressed to the 1st respondent-appellant wherein it is requested to examine the cases of casual labour on the ground that sufficient number of vacancies in the grade of group D are available under this Zone to accommodate all these casual labours. On a perusal of this letter, it can be said that the cases of the petitioners will come under the purview of this letter for consideration of their cases as to their regularization.

In the instant case, as rightly observed by the learned single Judge, the petitioners have continuously worked as part time casual labourers as on 1.8.1998 for more than 240 days as required under the scheme and therefore, they are eligible to be considered for conferring temporary status.

In the facts and circumstances of the case and in view of the circulars issued by the appellant and in view of the fact that the petitioners have fulfilled the requirement as enunciated under the scheme and in the light of the principles laid down by the Apex Court in the citation (2nd supra), We have no hesitation to hold that the order of the learned single Judge holding that the part time casual labourers

who worked in the appellants-company as on 1.8.1998 and who have completed 240 days immediately preceding 1.8.1998 are entitled to be included in the scheme for granting of temporary status, would not warrant any interference by this Court and as such, these appeals are devoid of merits. However, We make it clear that the order impugned shall be confined to the extent of the cases of the petitioners.

Accordingly, these writ appeals are dismissed confirming the order of the learned single Judge.

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Justice T.Meenakumari

1st February, 2005

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justice S.Ananda Reddy

Gurc.

Copies to

1 The Senior Deputy Director General (Electrical), Corporate Office, BSNL, New Delhi.
2 The Chief General Manager, BSNL, A.P. Hyderabad.
3 The Principal General Manager, Telecom District, Hdyerabad, A.P.
4 The Prl. Chief Engineer (E), BSNL, Electrical Zone, Hyderabad.
5 The Supdt. Engineer (E), BSNL, Nampally, Hyderabad.
6 The Executive Engineer (E), BSNL, Nampally, Hyderabad.

7. Two C.Ds.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT APPEAL Nos: 2213 of 2004, 47 of 2005, 51 of 2005, 56 of 2005 & 89 of 2005

(Common judgment delivered by Smt.Justice T.Meena Kumari)

1-2-2005